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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q67547

Masashi NAKATSUKA, et al.

Appln. No.: 10/030,694

Group Art Unit: 1624

Confirmation No.: 8610

Examiner: Richard L. Raymond

Filed: January 14, 2002

For: HETEROAROMATIC RING COMPOUNDS

**PETITION UNDER 37 CFR § 1.181 TO WITHDRAW A HOLDING
OF ABANDONMENT AND, ALTERNATIVELY, PETITION
UNDER 37 CFR § 1.137(b) TO REVIVE ABANDONED APPLICATION**

MAIL STOP PETITION

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

The undersigned, on behalf of Applicant, petitions the Commissioner requesting withdrawal of the holding of abandonment of the above identified application. The application was abandoned for allegedly not responding to the Office Action dated December 17, 2003. However, a Response to the Election of Species Requirement was in fact timely filed on January 16, 2004.

Submitted herewith are the following documents:

1. Copy of the Response to Election of Species Requirement filed January 16, 2004;
2. Stamp and Return Receipt bearing USPTO mail room date stamp of January 16, 2004; identifying the paper filed as "Response to Election of Species Requirement;"
3. Notice of Abandonment.

From documents 1-3 it is clear that this firm, representing Applicant, duly filed the Response to Election of Species Requirement with the PTO on January 16, 2004, well within the six month period for responding to the Office Action of December 17, 2003. Attachments 1-2 are proof that the PTO received the Response to the Restriction Requirement.

PETITION UNDER 37 CFR § 1.181 TO WITHDRAW A HOLDING
OF ABANDONMENT AND, ALTERNATIVELY, PETITION
UNDER 37 CFR § 1.137(b) TO REVIVE ABANDONED APPLICATION
U.S. Application No. 10/030,694

In view of the above it is respectfully submitted that the application should not have been abandoned and the Commissioner is petitioned to withdraw the holding of abandonment.

Alternatively, the undersigned petitions the Commissioner to revive the above application under 37 CFR § 1.137(b). However, it is believed that a Petition to Revive the application is not necessary.

The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 C.F.R. § 1.137(b) was unintentional. Pursuant to the Response to Election of Species Requirement filed January 16, 2004, Applicant elects the compound of Example 51 (pages 98 to 99 of the present specification). Claims 1-9 and 12-14 are readable on the elected species.

It is believed that no fee is due. However, the USPTO is directed and authorized to charge all required fees to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account. A duplicate copy of this transmittal letter is attached.

Respectfully submitted,



Patrick F. Gallagher
Registration No. 54,109

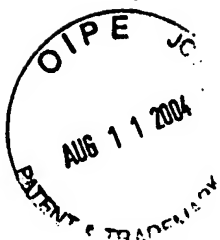
SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: August 11, 2004



13

FILING RECEIPT

PLEASE DATE STAMP AND RETURN TO US - BOX 235X

In re application of

Masashi NAKATSUKA, et al.

Appln. No.: 10/030,694

Confirmation No.: 8610

Filed: January 14, 2002

For: HETEROAROMATIC RING COMPOUNDS

PAPER(S) FILED ENTITLED:



Group Art Unit: 1624

Examiner: John M. Ford

1. Response to Election of Species Requirement

SUGHRUE MION, PLLC

Telephone: (202) 293-7060

Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

DOCKET NO.: Q67547

ATTORNEY/SEC: JFO:PFG/js

Date Filed: January 16, 2004



FILING RECEIPT
PLEASE DATE STAMP AND RETURN TO US - BOX 235X

In re application of

Masashi NAKATSUKA, et al.

Appln. No.: 10/030,694

Group Art Unit: 1624

Confirmation No.: 8610

Examiner: John M. Ford

Filed: January 14, 2002

For: HETEROAROMATIC RING COMPOUNDS

PAPER(S) FILED ENTITLED:

1. Response to Election of Species Requirement

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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q67547

Masashi NAKATSUKA, et al.

Appln. No.: 10/030,694

Group Art Unit: 1624

Confirmation No.: 8610

Examiner: John M. Ford

Filed: January 14, 2002

For: HETEROAROMATIC RING COMPOUNDS

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

FILED

JAN 16 2004

Sir:

This Response to Election of Species Requirement is submitted in reply to the Office Action dated December 17, 2003. Applicants elect the compound of Example 51 (pages 98 to 99 of the present specification).

I. Election of Species

The Examiner requests that Applicants identify a single heterocyclic ring. The Examiner indicates that Claim 1 is too broad.

In response to the Examiner's Election of Species Requirement, Applicants elect the compound of Example 51. Claims 1-9 and 12-14 are readable on the elected species.

II. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

Response to Election of Species Requirement
U.S. Appln. 10/030,964
ATTORNEY DOCKET NO. Q67547

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Patrick F. Gallagher
Registration No. 54,109

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
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WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: January 16, 2004



UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,694	01/14/2002	Masashi Nakatsuka	Q67547	8610

23373 7590 07/28/2004
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
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WASHINGTON, DC 20037

EXAMINER

RAYMOND, RICHARD L

ART UNIT

PAPER NUMBER

1624

DATE MAILED: 07/28/2004

DOCKETED
JUL 29 2004

Please find below and/or attached an Office communication concerning this application or proceeding.

O I P E

AUG 11 2004

Notice of Abandonment

Application No.

10/030,694

Examiner

Richard L. Raymond

Applicant(s)

NAKATSUKA ET AL.

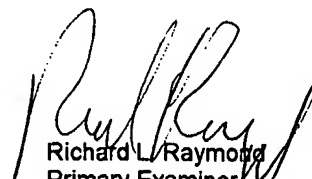
Art Unit

1624

The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on December 17, 2003.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below.



Richard L. Raymond
Primary Examiner
Art Unit: 1624

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.